



THE CITY OF SAN DIEGO

## REPORT TO THE HEARING OFFICER

HEARING DATE: December 8, 2004                      REPORT NO. HO-04-199

ATTENTION:                      Hearing Officer

SUBJECT:                      GARDNER RESIDENCE - PROJECT NUMBER: 22596

LOCATION:                      4554 Niagara Avenue

APPLICANT:                      Vence Gardner/Owner

### SUMMARY

Requested Action - Should the Hearing Officer approve Coastal Development Permit No. 56902 and Map Waiver No. 125542, to construct a new 2,428-square-foot residential unit on a 7,000-square-foot site that currently contains an existing dwelling unit and to waive the requirements for a Tentative Map to convert the two residential units to two condominium interests and waive the requirement to underground existing overhead utilities?

### Staff Recommendation -

1. Approve Coastal Development Permit No. 56902;
2. Approve Map Waiver No. 125542;
3. Approve waiver of the requirement to underground existing overhead utilities.

Community Planning Group Recommendation - On September 2, 2004, the Peninsula Community Planning Group voted 10-0-0 to approve the project with recommended conditions (Attachment 8).

Environmental Review - The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15303, new construction of small projects.

## BACKGROUND

The proposed project is located at 4554 Niagara Avenue, on a 7,000-square-foot site, in the RM-1-1 Zone (Residential-Multiple Unit), Coastal Overlay Zone (non-appealable area), Coastal Height Limit Overlay Zone, Airport Approach Overlay Zone, and Airport Environs Overlay Zone within the Peninsula Community Planning Area (Attachment 1). The site is designated within the Peninsula Community Plan for multi-family residential land use (Attachment 2 and 3).

The site is a relatively flat 7,000 square-foot rectangular shaped lot, and is currently developed with a residential unit that fronts on Niagara Avenue in the western portion of the site. The applicant is requesting a Coastal Development Permit (CDP) and a Tentative Map Waiver (TMW) to construct a 2,428 square-foot second residential unit in the back portion of the lot. Access to the new unit will be via an existing alley. The project also proposes the conversion of the two dwelling units to two condominium interests.

The site is currently zoned RM-1-1, a multiple unit residential zone permitting one unit per 3,000-square-feet of lot area. The zone was applied in January 2000. Previous zoning was R-2, which was established on the site in April 1930 and allowed for not more than two (2) dwelling units on any lot. The site is developed with one residential unit, which was constructed in the early 1930s, and is currently undergoing extensive remodeling.

The project application was deemed complete on December 16, 2004, prior to the adoption of the March 15, 2004, amendments of Chapter 14, Article 2, Division 13, Sections 142.1303 and 142.1306 of the San Diego Municipal Code, all relating to Inclusionary Affordable Housing Regulations. Therefore, the proposed project would not be subject to the amended regulations.

## DISCUSSION

This project is a request for a Coastal Development permit to construct a new 2,428-square-foot residential unit on a 7,000-square-foot site that currently contains an existing dwelling unit, and to waive the requirements for a Tentative Map for the subdivision of a 0.160-acre site into one lot to convert the two residential units to two condominium units, which will allow the sale of each unit. Additionally, the project requests a waiver from the requirement to underground the existing overhead utilities adjacent to the project site. This type of development is consistent with the General Plan and the Peninsula Community Plan, which designate the area for multi-family residential use. The proposed development will retain the community's character by encouraging orderly, sequential development compatible in its intensity with surrounding existing and future land development.

Prior to 1960, there was no parking requirement for the R-2 Zone. Under current regulations, parking required for the five (5) bedroom unit under construction is 2.25 spaces and two (2) spaces are required for the two (2) bedroom unit. The two unit project provides four (4) parking spaces, which meets the current parking requirements.

This project is exempt from environmental review pursuant to Article 19, Section 15303 of CEQA on the basis of new construction of small projects. Section 125.0410 of the San Diego Municipal Code requires that a Tentative Map be processed for the subdivision of land. A subdivider may request a waiver of Tentative Map requirements pursuant to Section 125.0120 of the San Diego Municipal Code. According to San Diego Municipal Code Section 144.0444, *Findings for Tentative Maps for Condominium Conversion*, the decision maker may approve a waiver from tentative map and requirements for subdivision proposals which demonstrate compliance with the General Plan, the Ocean Beach Precise Plan and the State Subdivision Map Act. Staff has determined the proposed waiver is consistent with the General Plan, the Peninsula Community Plan and the State Subdivision Map Act Section 66428.

#### Community Planning Group Recommendation

The Peninsula Community Planning Group recommended approval of the proposed project with one recommended condition; that the Architect would work “very diligently to find a way” to reduce the south side roof line an additional two (2) feet which would reflect an overall five (5) foot minimum lowering of the existing 3 story plan to preserve the neighbor’s ocean bay view and therefore, property value. Subsequently, architect met with neighbors and made some modifications to the original design & lowered the structure as requested.

#### Undergrounding Waiver Request

The project currently contains overhead utility lines. The applicant has requested a waiver of undergrounding existing overhead public utilities per San Diego Municipal Code Section 144.0240 and Council Policy 600-25. The waiver is only for existing overhead utilities. Any future utilities would be required to be undergrounded. City staff has evaluated the request and has determined it would represent an isolated undergrounding and the request meets the criteria in Council Policy 600-25 (Underground Conversion of Utility Lines at the Developers Expense) in that the conversion is a requirement of a condominium conversion of an existing development and the conversion would not represent a logical extension to an undergrounding facility. The City's Undergrounding Master Plan for Fiscal Year 2004 designates the site within Block 20 and a date for the undergrounding has not been determined by City Council (Attachment 5).

#### Condominium Conversion Regulations

The project proposes a Map Waiver to waive the requirements for a Tentative Map for the subdivision of a 0.16-acre site for the conversion of two residential units into condominiums. The project submittal was Deemed Complete on December 16, 2003, prior to the adoption of the March 15, 2004, Amendments of Chapter 14, Article 2, Division 13, Sections 142.1303 and 142.1306 of the San Diego Municipal Code, all relating to Inclusionary Affordable Housing Regulations. Therefore, the proposed project would not be subject to the amended regulations. The project is also exempt from the Coastal Overlay Zone Affordable Housing Replacement regulations per Section 143.0820(d) of the Land Development Code, which allows the conversion of ten or fewer dwelling units on a premise with more than one residential structure.

#### CONCLUSION

The proposed project conforms to the development regulations of the Land Development Code, including density, floor area ratio, height, parking and minimum yard setbacks. In addition, the proposed development is consistent with the Local Coastal Program and conforms to the Peninsula Community Plan and Local Coastal Program.

Staff has reviewed the request for a Coastal Development Permit to construct a new residential unit on site, and a Map Waiver to waive the requirements for a Tentative Map for the subdivision of land for the conversion of the two residential units into a condominium project, including the request to waive the requirement to underground existing overhead utilities. Staff has determined the project is in conformance with the applicable sections of the San Diego Municipal Code regulating Map Waivers and Council Policy 600-25 regulating undergrounding of existing overhead utilities. The development as conditioned, meets all applicable regulations set forth in the RM-1-1 Zone, the Peninsula Community Plan and the required findings can be supported (Attachment 7). Therefore, staff recommends approval of Coastal Development Permit No. 56902 and Map Waiver No. 125542, including the Waiver from Undergrounding existing utilities, with the attached conditions.

#### ALTERNATIVE

1. Approve Coastal Development Permit No. 56902 and Map Waiver No. 125542, with modifications.
2. Deny Coastal Development Permit No. 56902 and Map Waiver No. 125542, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

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Laila Iskandar, Development Project Manager

#### Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. City's Undergrounding Master Plan for Fiscal Year 2004, Block 20
6. Draft Permit with Conditions
7. Draft Resolution with Findings
8. Community Planning Group Recommendation
9. Ownership Disclosure Statement
10. Project Chronology

Job Order Number 42-2182